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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,867	04/20/2001	Debra Sue Caswell	8079M	3296

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THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
WINTON HILL TECHNICAL CENTER - BOX 161  
6110 CENTER HILL AVENUE  
CINCINNATI, OH 45224

EXAMINER

HARDEE, JOHN R

ART UNIT

PAPER NUMBER

1751

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/838,867

Applicant(s)

CASWELL ET AL.

Examiner

John R Hardee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-109 and 111-128 is/are pending in the application.
- 4a) Of the above claim(s) 1-104 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 105-109 and 111-128 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group XII in Paper No. 10 is acknowledged. The traversal is on the ground(s) that search of additional inventions, I-XI generally and I, II, III and XI in particular, would not be burdensome. This is not found persuasive because search and examination of five independent and distinct inventions, much less twelve, is burdensome on its face.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 102***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 105, 106, 109, 111-117, 120-122, 126 and 127 remain rejected under 35 U.S.C. 102(b) as being clearly anticipated by EP 812,808 A1. See table and examples.
4. Claims 105, 109, 111-122, 124 and 125 remain rejected under 35 U.S.C. 102(a) as being anticipated by WO 99/35234. The reference is in German. Reference is made to column and line in the equivalent Haerer et al., US 6,410,500 B1. See examples. Dehypon LS 54 is an ethoxylated and propoxylated alcohol.

***Claim Rejections - 35 USC § 103***

5. Claims 105-109, 111-118, 120-123 and 125-127 remain rejected under 35 U.S.C. 103(a) as being unpatentable over EP 812,808 A1. The reference discloses water softening tablets comprising 10-70% of a polyfunctional carboxylic acid or salt thereof, 15-45% by weight of carbonate or bicarbonate, 1-6% of a binder, 2-19% of polymer, 0-45% of layered silicate, 0-15% of disintegrating agent and 0-5% of precipitation inhibitor (abstract). As detergents and fabric softeners are not disclosed, it would be obvious to exclude them. Tablets of 20 g are disclosed, but in view of the general disclosure of "tablets", and no specific teachings regarding size or weight, the examiner takes the position that the production of tablets as small as aspirin tablets would be obvious. Free water appears to be absent from the formulations. Precipitation inhibitors are optional, so making the tablet free of such materials with MW of greater than 2000 would be obvious. In addition, polymers of MW less than 2000 are taught to be useful (p. 3, lines 28+). Bleach actives are optional. Polyethylene glycol is taught to be a suitable ingredient (p. 3, lines 28+), and is known in the surfactant art to act as an emulsifier. The carbonate or bicarbonate is taught to act as a builder (p. 3, line 25). Use of starch derivatives and clays are taught at p. 4, lines 14+. Uptake of atmospheric moisture is taught to be low, implying some sort of moisture barrier although the application of an actual barrier coating is not disclosed. Disclosed dissolution rates appear to meet the limitations of claims 126 and 127. This reference differs from the claimed subject matter in that it does not disclose a composition which reads on all of applicant's claims with sufficient specificity to constitute anticipation.

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It would have been obvious at the time the invention was made to make such a composition, because this reference teaches that all of the ingredients recited by applicants are suitable for inclusion in a water softening tablet. The person of ordinary skill in the surfactant art would expect the recited compositions to have properties similar to those compositions which are exemplified, absent a showing to the contrary.

In the case where the claimed ranges overlap or lie inside ranges disclosed by the prior art, a *prima facie* case of obviousness exists. *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976); *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed Cir. 1990).

6. Claims 105-109, 111-125 and 128 remain rejected under 35 U.S.C. 103(a) as being unpatentable over WO 99/35234. The reference is in German. Reference is made to column and line in the equivalent Haerer et al., US 6,410,500 B1. The reference discloses molded body detergent compositions for dishwashers which contain soil release polymers. Disintegrants, including combinations of weak acids and carbonates, may be added (col. 4, lines 15+). The shape of the molded bodies is not important, but one dimension of at least 5 mm is preferred for practicality (col. 4, lines 59+). Surfactant may be present at 0-5%; 2% is exemplified (Table, col. 14). Tablets are preferably of 15-60 g, but the examiner takes the position that production of smaller tablets would be obvious in view of the general disclosure of "tablets". Free water appears to be absent from the formulations. Use of anti-encrustation or suspending polymers is not disclosed. Use of bleach is preferred, but a composition free of bleach is exemplified (Vd4, col. 15). Use of polyethylene glycol is disclosed at the top of col. 7. Use of phosphate builder

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at >15% is exemplified throughout. Ethoxylated alcohols may be added (col. 12, lines 52+). Addition of starch and its derivatives is disclosed at col. 4, lines 10+; addition of zeolites is disclosed at col. 12, line 22. Use of a wax coating on agglomerated particles is disclosed in cols. 7 and 8. This would serve as a moisture barrier. Different ingredients may be of different colors (col. 5, lines 38+). This reference differs from the claimed subject matter in that it does not disclose a composition which reads on all of applicant's claims with sufficient specificity to constitute anticipation.

It would have been obvious at the time the invention was made to make such a composition, because this reference teaches that all of the ingredients recited by applicants are suitable for inclusion in a water softening tablet. The person of ordinary skill in the surfactant art would expect the recited compositions to have properties similar to those compositions which are exemplified, absent a showing to the contrary.

### ***Response to Arguments***

7. Applicant's arguments filed September 2, 2003 have been fully considered but they are not persuasive. Applicant argues that there is no teaching of the absence of an anti-encrustation or suspending polymer in the cited references. This is not persuasive because it is obvious to exclude an ingredient which is not mentioned in the prior art; it is obvious to exclude an ingredient which is taught to be optional; and it is obvious to exclude an ingredient where compositions free of that ingredient are exemplified. There need not be an explicit teaching in the prior art that such polymers must not be present.

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Regarding the '234 reference, applicant's arguments regarding "well mixed" compositions are well taken, but applicant's claim language, as newly amended, does not overcome the reference. Applicant's recited article comprises a composition, and that composition must be well mixed, although the article as a whole need not be. The middle zone of the prior art article is presumably well mixed, even though its composition is not reflective of the composition as a whole.

Regarding the recitation of "well mixed", the examiner would appreciate it if applicant were to point out the basis for this language.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Dr. John R. Hardee, whose telephone

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number is (703) 305-5599. The examiner can normally be reached on Monday through Friday from 8:00 until 4:30. In the event that the examiner is not available, his supervisor, Dr. Yogendra Gupta, may be reached at (703) 308-4708.

10. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.



John R. Hardee  
Primary Examiner  
September 22, 2003